MONTANA LEGISLATIVE HISTORY

Chapter 359 19 81

Bill H _____ S 231 Original bill & history ✓ C

H. Committee on Taxation			S. Committee on Taxation		
Hearing Date(s)	Mar 11	✓ C	Hearing Date(s)	Feb 05	✓ C
	Mar 13	✓ C		Feb 18	✓ C
	Mar 27	✓ C		_____	___ C
	_____	___ C		_____	___ C
Date Out	Mar 28	✓ C		Feb 18	✓ C

Did this bill originate in an interim committee? ___ Yes ___ No

Committee _____ Report _____

ON MOTION, 4/17, RULES SUSPENDED, PLACED ON 3RD READING
3RD READING: 4/17, YEAS: 66; NAYS: 29

RETURNED TO SENATE: 4/17

TRANSMITTED TO GOVERNOR: 4/21/81
ACTION: 4/23, SIGNED
CHAPTER 503

SB 230 -- HAGER, NILSON -- AMENDING 37-11-104 TO ALLOW PHYSICAL THERAPISTS TO EVALUATE WITHOUT REFERRAL.
INTRODUCED AND REFERRED TO COMMITTEE ON PUBLIC HEALTH, WELFARE AND SAFETY: 1/22
HEARING: 1/28;
REPORT: 2/2, DO PASS AS AMENDED
2ND READING: 2/4, DO PASS
3RD READING: 2/6, YEAS: 48; NAYS: 0

TRANSMITTED TO HOUSE: 2/6
REFERRED TO COMMITTEE ON HUMAN SERVICES: 2/7
HEARING: 3/6
REPORT: 3/12, BE CONCURRED IN, AS AMENDED
2ND READING: 3/19, YEAS: 91; NAYS: 6
3RD READING: 3/21, YEAS: 77; NAYS: 13

RETURNED TO SENATE WITH AMENDMENTS: 3/21
2ND READING: 3/24, BE CONCURRED IN
3RD READING: 3/26, YEAS: 46; NAYS: 0

TRANSMITTED TO GOVERNOR: 3/30/81
ACTION: 4/2, SIGNED
CHAPTER 240

SB 231 -- ELLIOTT -- REVISING THE ALCOHOLIC BEVERAGE LICENSING LAWS IN THEY RELATE TO CORPORATE LICENSE APPLICANTS, LICENSEES, IF ELIMINATING RESIDENCY REQUIREMENTS. . .
INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION: 1/22
HEARING: 2/5
REPORT: 2/18, DO PASS AS AMENDED
2ND READING: 2/20, DO PASS
3RD READING: 2/24, YEAS: 50

TRANSMITTED TO HOUSE: 2/24
REFERRED TO COMMITTEE ON TAXATION: 3/2
REPORT: 3/14, BE CONCURRED IN
2ND READING: 3/19, YEAS: 41; NAYS: 48
ON MOTION, 3/19, INDEFINITELY POSTPONED -- YEAS: 63; NAYS:
SEGREGATED: 3/19
ON MOTION, 3/19, REREFERRED TO COMMITTEE ON TAXATION.
REPORT: 3/28, BE CONCURRED IN
2ND READING: 3/30, AS AMENDED -- YEAS: 85; NAYS: 7
3RD READING: 3/31, YEAS: 73; NAYS: 18

RETURNED TO SENATE WITH AMENDMENTS: 3/31
2ND READING: 4/3, BE CONCURRED IN
3RD READING: 4/6, YEAS: 47; NAYS: 0

TRANSMITTED TO GOVERNOR: 4/10/81
ACTION: 4/14, SIGNED
CHAPTER 359

SENATE BILL NO. 231

INTRODUCED BY ELLIOTT

BY REQUEST OF THE DEPARTMENT OF REVENUE

IN THE SENATE

January 22, 1981	Introduced and referred to Committee on Taxation.
February 18, 1981	Committee recommend bill do pass as amended. Report adopted.
February 19, 1981	Bill printed and placed on members' desks.
February 20, 1981	Second reading, do pass.
February 23, 1981	Correctly engrossed.
February 24, 1981	Third reading, passed. Ayes, 50; Noes, 0. Transmitted to House.

IN THE HOUSE

March 2, 1981	Introduced and referred to Committee on Taxation.
March 16, 1981	Committee recommend bill be concurred in. Report adopted.
March 19, 1981	Second reading, not concurred in.
	Bill segregated and rereferred to Committee on Taxation.
March 28, 1981	Committee recommend bill be concurred in. Report adopted.

March 30, 1981	Second reading, concurred in as amended.
	On motion rules suspended and bill placed on third reading this day.
March 31, 1981	Third reading, concurred in as amended. Ayes, 73; Noes, 18.
	On motion rules suspended and bill allowed to be transmitted on 71st legislative day. Motion adopted.

IN THE SENATE

April 1, 1981	Returned from House with amendments.
April 3, 1981	Second reading, amendments concurred in.
April 6, 1981	Third reading, amendments concurred in. Ayes, 49; Noes, 0. Sent to enrolling.
	Reported correctly enrolled.

LC 0328/01

Senate BILL NO. 231

INTRODUCED BY Elliott

BY REQUEST OF THE DEPARTMENT OF REVENUE

A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE ALCOHOLIC BEVERAGE LICENSING LAWS AS THEY RELATE TO CORPORATE LICENSE APPLICANTS AND LICENSEES; ELIMINATING RESIDENCY REQUIREMENTS FOR LICENSES OTHER THAN THOSE FOR ON-PREMISES CONSUMPTION; AMENDING SECTIONS 16-4-103, 16-4-108, AND 16-4-401, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 16-4-103, MCA, is amended to read:

"16-4-103. Wholesalers' licenses -- application for and issuance -- subwarehouses -- imported beer handled through warehouse or subwarehouse. (1) Any person desiring to sell and distribute beer as a wholesaler under the provisions of this code shall apply to the department for a license to do so and tender with his application the license fee provided for, and the department is hereby empowered, authorized, and directed to issue wholesale licenses to qualified applicants in accordance with the provisions of this code. Such license shall be at all times prominently displayed in the place of business of such wholesaler.

~~(2) To qualify for a wholesaler's license, the applicant shall be a resident of Montana; provided, however, any individual or partnership which has been licensed as a beer wholesaler may, upon incorporation in accordance with the laws of the state of Montana, transfer such license to the corporation if a majority of the capital stock thereof is held by said individual or the members of said partnership. If applicant is a foreign corporation, said corporation shall be authorized to do business in Montana.~~ Said An applicant shall have a fixed place of business, sufficient capital, the facilities, storehouse, receiving house, or warehouse for the receiving of, storage, handling, and moving of beer in large and jobbing quantities for distribution and sale in original packages to other licensed wholesalers or licensed retailers. Each wholesaler ~~shall be~~ is entitled to only one wholesale license, which license shall be issued for his principal place of business in Montana. A duplicate license may be issued for one subwarehouse only, in Montana, for each wholesale licensee. ~~Said~~ The duplicate license shall at all times be prominently displayed at said subwarehouse.

(3) If the applicant is a foreign corporation, the corporation must be authorized to do business in Montana."

Section 2. Section 16-4-108, MCA, is amended to read:

"16-4-108. Wine distributor's license. (1) Any person desiring to sell and distribute table wine at wholesale to retailers under the provisions of this code shall apply to

SB 231

the department of revenue for a license to do so and shall tender with his application the annual license fee of $400 and the department may issue licenses to qualified applicants in accordance with the provisions of this code.

(2) All table wine distributors' licenses issued in any year ~~shall~~ expire on June 30 at midnight of such year.

(3) No license fee may be imposed upon table wine distributors by a municipality or any other political subdivision of the state.

(4) The license shall be at all times prominently displayed in the place of business of such table wine distributor.

(5) ~~To qualify for a table wine distributor's license the applicant shall be a resident of Montana; provided, however, any individual or partnership which has been licensed as a table wine distributor may, upon incorporation in accordance with the laws of Montana, transfer such license to the corporation if a majority of the capital stock thereof is held by said individual or the members of said partnership or if applicant is a foreign corporation said corporation shall be authorized to do business in Montana; and said~~ An applicant shall have a fixed place of business, sufficient capital, the facilities, storehouse, receiving house or warehouse for the receiving of, storage, handling, and moving of table wine in large and jobbing

quantities for distribution and sale in original packages to other licensed table wine distributors or licensed retailers. Each table wine distributor ~~shall be~~ is entitled to only one wholesale table wine license, which license shall be issued for his principal place of business in Montana; ~~e.~~ A duplicate license may be issued for one subwarehouse only in Montana for each table wine distributor's license, ~~which said.~~ The duplicate license shall at all times be prominently displayed at said subwarehouse. A table wine distributor may also hold a license to sell beer at wholesale but shall not hold or have any interest, direct or indirect, in any license to sell beer, wine, or liquor at retail.

(6) If the applicant is a foreign corporation, the corporation must be authorized to do business in Montana."

Section 3. Section 16-4-401, MCA, is amended to read:

"16-4-401. License as privilege -- criteria for decision on application. (1) A license under this code is a privilege which the state may grant to an applicant and is not a right to which any applicant is entitled.

(2) ~~The~~ Except as provided in subsection (5), in the case of a license that permits on-premises consumption, the department must find in every case where it makes an order for the issuance of a new license or for the approval of the transfer of a license that:

(a) in the case of an individual applicant:

~~(i)~~(i) neither the applicant nor any member of his immediate family has an ownership interest in any other establishment licensed under this chapter for all-beverages sales;

~~(2)~~(ii) the applicant or any member of his immediate family is without financing from or any affiliation to a manufacturer, bottler, or distributor of beer, wine, or liquor;

~~(3)~~(iii) the applicant is a resident of the state and is qualified to vote in a state election;

~~(4)~~(iv) the applicant's past record and present status as a purveyor of alcoholic beverages and as a businessman and citizen demonstrate that he is likely to operate his establishment in compliance with all applicable laws of the state and local governments; and

~~(5)~~(v) the applicant is not under the age of 19 years~~;~~ and

(b) in the case of a corporate applicant:

(i) the owners of at least 51% of the outstanding stock meet the requirements of subsection (2)(a)(iii);

(ii) each owner of 10% or more of the outstanding stock meets the requirements for an individual applicant listed in subsection (2)(a) of this section; and

(iii) the corporation is authorized to do business in

Montana.

(3) In the case of a license that permits only off-premises consumption or that is for the manufacture or wholesaling of an alcoholic beverage, the department must find in every case where it makes an order for the issuance of a new license or for the approval of the transfer of a license that:

(a) in the case of an individual applicant:

(i) neither the applicant nor any member of his immediate family has an ownership interest in any other establishment licensed under this chapter for all-beverages sales;

(ii) the applicant or any member of his immediate family is without financing from or any affiliation to a manufacturer, bottler, or distributor of beer, wine, or liquor;

(iii) the applicant has not been convicted of a felony or, if the applicant has been convicted of a felony, his rights have been restored;

(iv) the applicant's past record and present status as a purveyor of alcoholic beverages and as a businessman and citizen demonstrate that he is likely to operate his establishment in compliance with all applicable laws of the state and local governments; and

(v) the applicant is not under the age of 19 years;

and

(b) in the case of a corporate applicant:

(i) the owners of at least 51% of the outstanding stock meet the requirements of subsection (3)(a)(iii);

(ii) each owner of 10% or more of the outstanding stock meets the requirements for an individual listed in subsection (3)(a) of this section; and

(iii) the corporation is authorized to do business in Montana.

(4) In the case of a corporate applicant, the requirements of subsections (2)(b) and (3)(b) apply separately to each class of stock.

(5) The provisions of subsection (2) do not apply to an applicant for or holder of a license pursuant to 16-4-302."

-End-

MINUTES OF THE MEETING
TAXATION COMMITTEE
MONTANA STATE SENATE

February 5, 1981

The twentieth meeting of the committee was called to order at 8:05 a.m., Chairman Pat Goodover presiding, in Room 415 of the State Capitol Building.

ROLL CALL: All members were present except for Senators Bob and Steve Brown, who were excused.

CONSIDERATION OF SENATE BILL 255:

"AN ACT TO ELIMINATE CERTAIN TAXES FOR LINEAL DESCENDANTS; AMENDING SECTIONS 72-16-313 AND 72-16-321, MCA."

Senator Turnage said this bill eliminates the Montana inheritance tax on lineal descendants but still leaves in place the Montana estate tax. The reason for the Montana tax to remain is that if there is a federal estate tax and credit is given for state death taxes, one is entitled to deduct that from the Federal return. This bill would eliminate the Montana inheritance tax on children. The fiscal note indicates an approximate decrease of 2.1 million dollars for the biennium. Sen. Turnage asked Mr. Stohl, Department of Revenue, to explain the fiscal note. Mr. Stohl said that had this law been in effect during 1980 the impact would have been 2 million dollars. The problem in allocating fiscal impact with inheritance taxes is that it takes 18 months from date of death until the revenue department sees collections. Sen. Turnage said this bill has a collateral effect in that it is conceivable for property left to a descendant to avoid having formal probate.

PROPONENTS: Mrs. Lucille Anderson, testimony is Attachment #1.
Pat Underwood, Director of Information for the Montana Farm Bureau.
Jo Brunner, W.I.F.E., testimony is Attachment #2.
Mons Tiegen, Montana Stockgrowers and Woolgrowers.
Dave Goss, Billings Area Chamber of Commerce.
Janelle Fallon, Montana Chamber of Commerce.

Sen. Elliott wondered about absence of effective date in the bill. Sen. Turnage said the effective date would be either July 1 or October 1, depending upon passage of another bill. He suggested that if the committee took action on an effective date, they request a fiscal note first. Sen. Turnage said he would like the date to be July 1, but we also could consider "on passage and approval." The hearing was closed on Senate Bill 255.

CONSIDERATION OF SENATE BILL 231:

"AN ACT TO REVISE THE ALCOHOLIC BEVERAGE LICENSING LAWS AS THEY RELATE TO CORPORATE LICENSE APPLICANTS AND LICENSEES; ELIMINATING RESIDENCY REQUIREMENTS FOR LICENSES OTHER THAN THOSE FOR

ON-PREMISES CONSUMPTION; AMENDING SECTIONS 16-4-103, AND 16-4-401, MCA."

Sen. Elliott said this is a bill to revise the all-beverage license laws as they relate to corporations. Changes in the bill were originally requested by the Legislative Auditor who considers this a housekeeping bill, but the bill itself was by the Department of Revenue. Essentially, the term corporate was taken out and a new corporate definition was added on pages 6 and 7. Sen. Elliott introduced Larry Weinberg, Staff Attorney for the Department of Revenue, who said the department faces problems in administering license law because of criteria in 16-4-401 term of "a natural person." At the same time the law, as written, contemplates ownership of licenses by corporations. The result has been for the Department to set up qualifications for corporations. He wanted to emphasize this as a vehicle for the committee to look at and give the DOR criteria for corporate license holders, something they can administer. The heart of the bill, according to Mr. Weinberg, is in section 3, an amendment to 16-4-401. He handed out a paper setting out DOR's views of this bill, Attachment #3, and also proposed amendment language, Attachment #4. He said Sen. Turnage was concerned about one individual controlling multiple licenses through the corporate structure, and that the amendments addressed that concern.

There were no proponents or opponents to this bill and questions were called for from the committee. There was a small discussion to clarify the proposed amendments, and the hearing was closed on SB 231.

In executive session, the committee's attention was called to the possible committee sponsorship of a bill dealing with liquor licensing. Sen. Goodover said if the committee decides they want to do something about this bill a public hearing will be scheduled.

Cort Harrington went through the proposed language of the bills he was asked to draft. There were comments from members indicating they would like clarification of criteria for bona fide restaurant, protection of existing rights of license holders, and census result application, etc. Rep. Harrington has a bill in committee which deals with Department of Revenue acceptance of annual estimates on census.

Phil Strope, representing Montana Tavernowners Association, expressed a desire that the committee drop defining restaurant portion of the bill, saying it would be a lawyer's relief act.

Cort then introduced part 2 of the bill, dealing with resort licenses, which will take amendment. Cort said he left restrictions the same as were used on floater license. After Cort explained his approach in drafting language, Sen. Towe asked Mr. Strope that if the committee were to drop the restaurant part of the proposal, change the figure from 10% to 30%, how would your people view that. Mr. Strope said he felt they would look at it as being reasonable.

Sen. Towe made a motion that the 2nd part of this bill be drafted as a committee bill. Senator Towe said he would propose the figure 10% but asked that 30% be put in just to get the bill drafted. Some members of the committee seemed to be in favor of the proposed solution.

Sen. Goodover said the committee would delay action to allow the Tavern association to come up with proposals to the second part. Then, if agreement could be reached, a committee bill would be drafted.

CONSIDERATION OF SENATE BILL 15: in sub-committee

Sen. Goodover said that one of the main concerns with this bill was the possibility that some small towns who would want to issue bonds for building might not have a chance to get a competitive interest rate on their issue. He suggested that a paragraph be added saying the interest rate would be based on FHA or VA rate during a 30-day period prior to sale of the bonds. Some members of the committee were still concerned about revenue bonds and an interest rate ceiling. After discussion it was thought the bill might be passed without being concerned about a maximum interest rate. Sen. Brown moved that we amend Senate Bill 15 to remove Section 15, and renumber all subsequent sections. The motion was carried unanimously to so amend. Senator Brown then moved that Senate Bill 15, as amended, be given a DO PASS.

Senator Towe requested that the committee wait a day or two to pass the bill from committee as he had another bill which might affect this one.

Sen. Goodover proposed putting Senate Bill 15 and Sen. Towe's bill into a subcommittee so they could come up with a consensus of opinion. Appointed to serve on the sub-committee were Senators McCallum, Towe, Norman, and Crippen.

The meeting was adjourned at 10:00 a.m.

Patsy Goodover

PAT M. GOODOVER, CHAIRMAN

ROLL CALL

TAXATION COMMITTEE

47th LEGISLATIVE SESSION - - 1981 Date 2/05/81

NAME	PRESENT	ABSENT	EXCUSED
Goodover, Pat M., Chairman	✓		
McCallum, George, Vice	✓		
Brown, Bob		✓	✓
Brown, Steve			✓
Crippen, Bruce D.	✓		
Eck, Dorothy	✓		
Elliott, Roger H.	✓		
Hager, Tom	✓		
Healy, John E. "Jack"	✓		
Manley, John E.	✓		
Norman, Bill	✓		
Ochsner, J. Donald	✓		
Severson, Elmer D.	✓		
Towe, Thomas E.	✓		

Each day attach to minutes.

Attachment #3

DEPARTMENT OF REVENUE

SENATE BILL NO. 231

SB 231 addresses the problem of corporate liquor licenses. Although the statutes presently contemplate corporate holders of various alcoholic beverage licenses, the general criteria for a holder of license, found in Section 16-4-401, MCA, are phrased in terms of a natural person. This has lead to difficulty in implementing the law and has forced the Department of Revenue to rely on rules in order to consider corporate applicants. SB 231 attempts to provide workable criteria for corporate licenses.

It should be stressed that the Department considers the provisions of SB 231 to be adequate but it does not view the criteria to be "set in cement". Rather, SB 231 is a vehicle to bring this problem before the Legislature and to permit the Legislature to indicate its wishes.

Note that there is a dichotomy between licenses involving on-premise consumption and all other licenses.

Section Analysis

Section 1. Amends 16-4-103, MCA. Subsection (2) is rewritten and Subsection (3) is added to this section. It is intended that the general provisions of Section 16-4-401, MCA, will apply to this class of license (beer wholesalers).

Section 2. Amends 16-4-108, MCA. Subsection (5) is rewritten and Subsection (6) is added to this section. It is intended that the general provisions of Section 16-4-401, MCA, will apply to this class of license (wine distributors).

Section 3. Amends 16-4-401, MCA. The amendments to this section substantially rewrite the section. Subsection (2) applies to licenses permitting on-premises consumption, while Subsection (3) pertains to other licenses. Note that for on-premises consumption residency in Montana and ability to vote are retained while for the other licenses this criteria is changed to nonfelons. The Department believes it can defend a challenge to the constitutionality of a resident-nonresident distinction where on-premises consumption is allowed but is not so confident in the other cases. The corporate requirements are phrased in terms of the stockholders of the corporation with an additional requirement that the corporation is authorized to do business in Montana. The corporate requirements do not apply to common carriers licensed pursuant to Section 16-4-302, MCA.

Attachment # 4

C

AMENDMENTS TO SENATE BILL 231

1. Amend page 5, line 24
   Following: ";"
   Strike: "and"

2. Amend page 6, line 1
   Following: "Montana"
   Strike: "."
   Insert: "; and"

3. Amend page 6, line 2
   Following: line 1
   Insert: "(iv) in the case of a corporation not listed on a national stock exchange, each owner of stock meets the requirements of subsection (2)(a)(i)"

IFYING THAT THE REVOLVING FUND MAY NOT EXCEED 5 PERCENT OF THE OUTSTANDING BONDS; AND REQUIRING THAT THE VOTERS APPROVE ANY AGREEMENT CONCERNING THE REVOLVING FUND MADE IN CONNECTION WITH A BOND ISSUE; AMENDING SECTIONS 7-12-2170, 7-12-2182, 7-12-2185, 7-12-4202, 7-12-4222, AND 7-12-4225, MCA."

Sen. Turnage said the first part of the bill amends rural aspect and the second the city. The amendment on page 4 amending 7-12-2182 says the balance in the revolving fund may not exceed 5% of the then outstanding rural district bonds and warrants, keeping the revolving fund lean. He felt general obligation bonds were being passed without a vote of the people by calling them rural or SID bonds. He said he would accept an amendment that would state a 9% bond limitation on counties and cities.

OPPONENTS:

John Nesbo, Toole County Commissioner.
Sen. Crippen, District 33, spoke in opposition to both bills as he feels the only vehicle available today to developers, in light of high interest rates, is a SID. He thought many things were required of a developer before he can come in and that that price would triple if a developer had to go to a bank and borrow at 18%. He felt the SID system of financing would be effectively destroyed when financing is critical and would cause a no-growth situation.

Bruce MacKenzie, D. A. Davidson, felt the amendments in sections 3 and 6 would impair the ability of counties and cities to use revolving funds as security for improvement district bonds and would effectively remove the use of revolving funds altogether. He felt Senate Bill 96 provides that the revolving fund for cities could be capitalized directly from bond proceeds, rather than resorting to the general ad valorem tax. Senate Bills 280 and 42 would impose penalties on those delinquent in thei assessment payments at a rate which would encourage payment or borrowing from a source other than the revolving fund. He thought the above bills would enhance the improvement district bonds, rather than effectively eliminate the method of financing, Attachment #4.

Tom Crowley, Missoula, said they request developers to put up money for escrow and, if they become delinquent, they pay for it. Sen. Crippen said there is a bill proposed that would require 5% up front of the total amount of the district. Sen. Turnage agreed that that approach is what the bill is tending toward and that the bill wasn't intended to stop SID financing, but only to make it more difficult. The hearing was closed on Senate Bills 358 and 382 and they were referred to the subcommittee.

DISPOSITION OF SENATE BILL 279:

Sen. Towe moved that SB 279 be given a DO PASS. The vote was unanimously in favor of the motion.

DISPOSITION OF SENATE BILL 231: Sen. Elliott moved amendment language for the bill and it passed unanimously. He then made a motion that the bill

be given a DO PASS, as amended. The vote was unanimously in favor.

The chairman announced a committee meeting for 7:30 a.m. tomorrow. He announced that Friday's meeting would be at 7:00 a.m.

The meeting was adjourned at 10:00 a.m.

Pat M. Goodover

PAT M. GOODOVER, CHAIRMAN

ROLL CALL

TAXATION COMMITTEE

47th LEGISLATIVE SESSION - - 1981 Date 2/18/81

NAME	PRESENT	ABSENT	EXCUSED
Goodover, Pat M., Chairman	✓		
McCallum, George, Vice	✓		
Brown, Bob	✓		
Brown, Steve		✓	
Crippen, Bruce D.	✓		
Eck, Dorothy	✓		
Elliott, Roger H.	✓		
Hager, Tom	✓		
Healy, John E. "Jack"	✓		
Manley, John E.	✓		
Norman, Bill	✓		
Ochsner, J. Donald	✓		
Severson, Elmer D.	✓		
Towe, Thomas E.	✓		

Each day attach to minutes.

STANDING COMMITTEE REPORT

February 13 19 81

MR. PRESDIENT

We, your committee on TAXATION

having had under consideration Senate Bill No. 231

Respectfully report as follows: That Senate Bill No. 231

be amended, as follows:

1. Amend page 5, line 24
Following: ";"
Strike: "and"

2. Amend page 6, line 1
Following: "Montana"
Strike: "."
Insert: "; and"

3. Amend page 6, line 2
Following: line 1
Insert: "(iv) in the case of a corporation not listed on a national stock exchange, each owner of stock meets the requirements of subsection (2)(a)(i)"

And, as so amended,

DO PASS

PAT M. GOODOVER, Chairman.

STATE PUB. CO.

HOUSE TAXATION COMMITTEE MEETING MINUTES
March 11, 1981

A meeting of the House Taxation Committee was held on Wednesday, March 11, 1981 at 8:00 a.m. in Room 102 of the State Capitol. All members were present except Rep. Vinger, who was excused. SENATE BILLS 134, 183, 231 and 279 were heard and EXECUTIVE ACTION was taken on SENATE BILL 284.

The first bill to be heard was SENATE BILL 134, sponsored by Sen. Roger Elliott. This bill will give an automatic six-month extension of time on State income tax return filing. The bill is geared the same as the federal returns, although the federal return gives somewhat less than six months; this measure will benefit the taxpayer.

Larry Weinberg, Department of Revenue, rose in SUPPORT of the bill. The bill was introduced at the request of the Department. The reason was to cut down on paper work. Last time there were 15,000 requests for a two-month extension and 3,000 more for additional time.

There were no OPPONENTS to SB 134; there were no questions from the Committee.

The sponsor then closed, and the hearing on SENATE BILL 134 was closed.

SENATE BILL 231, also sponsored by Sen. Elliott, was then heard. This bill addresses the problem of definition of corporate license holder. The bill was presented at the request of the Department of Revenue because they have trouble recognizing the definition in relation to retail liquor licenses.

Larry Weinberg, Department of Revenue, then spoke. This bill attempts to put into the statutes some criteria for issuing licenses to corporations in the liquor area. Requirements are worded to apply to an individual, and there are some references elsewhere to corporations. The Department doesn't consider itself bound by the provisions of this bill and if the Committee had any difficulties, the Department will address them. This bill was worked out in conjunction with the Liquor Division. Especially in the area of all-beverage licenses, out-of-state corporations weren't coming into the State and holding licenses. However, large corporations might own taverns in their establishments and the Department did want to keep from having them to have that kind of license when the corporation is a major out-of-State corporation. Controls are needed so that organized crime doesn't come into the State; individual applicant criteria has to be changed. Corporate applicant criteria is tied back into the qualifications of the stockholders.

There were no OPPONENTS to the bill. Questions were then asked. Rep. Nordtvedt pointed out that if each stockholder had to be checked out, this would make a lot of work for the Department. Mr. Weinberg said that if an application was made, certification would be made on behalf of the rest of the stockholders but only the big stock holders would be investigated. Rep. Nordtvedt said he couldn't see how a corporation could be asked to certify that all their stockholders weren't felons,

etc. Mr. Weinberg said this was part of the Department's investigation, but it was not something that the applicants had to swear to.

In response to Rep. Bertelsen, Mr. Weinberg said that if a corporation is on the National Stock Exchange, it is still not excused from the criteria on P. 5 of the bill. In addition, if the corporation isn't listed, it has to meet more than just the first 3 criteria on P. 5.

Rep. Williams wanted to know what the present procedure was, and Mr. Weinberg said it was basically the same as set out in the bill.

Sen. Elliott then closed. He commented that the bill had passed the Senate with no dissenting votes.

SENATE BILL 183, sponsored by Sen. Swede Hammond, was then heard. This bill was being carried by him because of the plight of people who had purchased lots and found that they were responsible for a rollback tax. He gave a short history on the tax. It has been subject to three Attorney General's opinions. The Attorney General said all lands are subject to this tax. It was asked what happens in 1975; how far is the rollback applied, and it was decided the full rollback couldn't be applied until1978; it wasn't retroactive. In 1976 the Attorney General said that the mere filing of a subdivision plat doesn't constitute a change in use, so this made it impossible for the tax to do what it was intended to do in the first place.

In 1974 and 1975 there were 42 decisions appealed to the State Tax Appeals Board, and 35 of them granted the taxpayer continued agricultural status. There has been nothing but difficulty with this tax since its inception. In 1978 it was declared unconstitutional because it was a double tax. In February 1978 the staff attorney applied to District Court in Great Falls because it had been declared unconstitutional, and the matter is still in Court. The law has not done what it was intended to; it didn't deter the use of agricultural lands for other purposes. The developer isn't made aware of the tax until after the improvements are made. It has created a lot of hardships for people who have built homes.

Dennis Burr, Montana Taxpayers Association, then rose in support of the bill. This has been a harrassing measure to both land owners and the Department of Revenue. Every owner of land has to apply to the Department to keep their land as agricultural. Whether they applied or not the Department couldn't change it.

The person subdividing the land has to pay a penalty, in hopes that they would at least think about the impact of subdividing the land. However, the Attorney General decided that the developer wouldn't be affected, but the person who bought the land from him would have to pay the tax. The State Tax Appeals Board declared the State law unconstitutional. He doesn't feel there is anything unconstitutional about the law. The result of all the opinions is that people that have been taxed can appeal and avoid paying the tax. In addition, the tax is not being uniformly applied throughout the Counties. He

VISITORS' REGISTER

HOUSE Taxation COMMITTEE

BILL SB 231 Date 3/11/81

SPONSOR Elliott

NAME	RESIDENCE	REPRESENTING	SUPPORT	O
Jerry Hamblin	Helena	SELF	X	
Larry Wembley	Helena	D.O.R	X	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

The Committee then went into EXECUTIVE SESSION and SENATE BILL 183 was considered. Rep. Oberg moved that the bill BE CONCURRED IN. He submitted that the rollback tax wasn't workable, regretfully. Rep. Nordtvedt added that the Revenue Oversight Committee addressed this subject but couldn't find a way to make the tax workable. Rep. Neuman wanted to know what the status was of the bill which provided that the person selling the property had to certify that all taxes had been paid. Rep. Bertelsen said he didn't think this would take care of the problem. He pointed out that the rollback tax didn't always show up before the land was sold. The question was called for and the motion carried unanimously. Rep. Bertelsen agreed to carry the bill.

Rep. Williams then moved that SENATE BILL 231 BE CONCURRED IN. Motion carried unanimously. Rep. Williams agreed to carry the bill.

SENATE BILL 279 was then considered. Rep. Switzer said that the wine distributor should pay the tax on his loss just as the gasoline distributor pays the tax on his loss.

Rep. Zabrocki moved that the bill BE NOT CONCURRED IN. Rep. Williams rose in opposition to the motion. He didn't feel the beer wholesalers could be given this provision and not the wine distributors. Rep. Dozier submitted that the wholesaler would worry more about breakage, because the loss would be greater than the amount of the tax.

Rep. Brand wanted to know if there were many people who had both a beer and wine wholesale distributorship. Rep. Nordtvedt felt that most distributors had both.

Rep. Williams made a substitute motion that the bill BE CONCURRED IN. Motion carried with Reps. Brand, Burnett, Underdal, Devlin, and Zabrocki opposed. Rep. Williams agreed to carry the bill.

SENATE BILL 134 was considered. Rep. Underdal moved that it BE CONCURRED IN.

Rep. Nordtvedt asked Ms. Feaver if extensions would be charged interest. She replied that they would be, and the only loss in revenue would be what the State was making on its short-term investment of the funds. Rep. Zabrocki pointed out that the State would have to pay a higher interest rate because of the extension. Ms. Feaver replied that there was a six-month grace period for the State. The question was called for and the motion that the bill BE CONCURRED IN carried unanimously.

SENATE BILL 210 was then heard. The sponsor, Sen. Tom Towe, explained the bill. At present, if a taxpayer wants to appeal their taxes, for whatever reason, the taxes can be appealed and the appeal won on the State level. Only the taxes of the person are adjusted. It is easy for the Department of Revenue to concede the case and pay the people off because the impact is just with the case, and doesn't apply

STANDING COMMITTEE REPORT

March 14 19 81

MR. SPEAKER

We, your committee on TAXATION

having had under consideration SENATE Bill No. 231

A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE ALCOHOLIC BEVERAGE LICENSING LAWS AS THEY RELATE TO CORPORATE LICENSE APPLICANTS AND LICENSEES; ELIMINATING RESIDENCY REQUIREMENTS FOR LICENSES OTHER THAN THOSE FOR ON-PREMISES CONSUMPTION; AMENDING SECTIONS 16-4-103, 16-4-108, AND 16-4-401, MCA."

Respectfully report as follows: That SENATE Bill No. 231

BE CONCURRED IN
~~DO PASS~~

Rep. Ken Nordtvedt, Chairman.

STATE PUB. CO.
Helena, Mont.

and postpone paying the capital gains tax. Once the money goes into the consumption stream, the taxes will be paid.

Rep. Williams wanted to know how the bill compared with the treatmen of home owners and this was discussed. This bill would be the same concept but covering everything minus what the amendments excluded.

Rep. Dozier said that this bill would be creating more tax loopholes

Rep. Nordtvedt submitted that the bill would get investment capital to stay in the Montana enterprise system. He agreed that if the loo holes could be closed, that would be desirable.

Rep. Oberg wanted to know what effect the amendment changing the tim limitation would have on the fiscal note and Rep. Nordtvedt said it wouldn't have any effect. If the bill didn't do what it tried to do, there would be no fiscal impact, but if it did bring in out-of-State investment money, then the capital gains tax would be avoided. Once the State reached a new steady state; things would be alright; in th transition there would be a temporary loss of revenue. If 20% of th capital gains investments were taken advantage of in the State, the effect would be $1 million per year.

Rep. Nordtvedt moved that the amendments be adopted; motion carried unanimously.

The question was then called for on the motion of DO PASS AS AMENDED motion carried with Reps. Harrington and Dozier opposed.

Rep. Nordtvedt moved that the Statement of Intent be adopted; motion carried unanimously; see Exhibit "C."

Rep. Williams moved that SENATE BILL 231 BE CONCURRED IN. He explai that there were several amendments that should take care of objectio to the bill. The question was called for; motion carried unanimousl

Rep. Harrington submitted that action needed to be taken on HOUSE BI 73, and he moved that it DO PASS. He felt that with the cattle tax and the automobile license bill and the inventory tax repeal, the impact would be hard on the Counties, and possibly HB 73 was the ans for this.

Rep. Nordtvedt submitted that HB 73 should be Tabled. What the House did on the automobile fee bill would have an effect on what should b done with this bill. He pointed out that the Governor's fee bill wo be reimbursing the local governments.

Rep. Harrington said he wanted HB 73 passed out so that it could be considered as an alternative. He stressed that his local district would be suffering a large loss under the fee system.

Rep. Burnett moved that HOUSE BILL 73 be TABLED.

Rep. Brand rose in support of Rep. Harrington's motion. He submitte

STANDING COMMITTEE REPORT

March 28, 19 81

MR. SPEAKER

We, your committee on TAXATION

having had under consideration SENATE Bill No. 231

A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE ALCOHOLIC BEVERAGE LICENSING LAWS AS THEY RELATE TO CORPORATE LICENSE APPLICANTS AND LICENSEES; ELIMINATING RESIDENCY REQUIREMENTS FOR LICENSES OTHER THAN THOSE FOR ON-PREMISES CONSUMPTION; AMENDING SECTIONS 16-4-103, 16-4-108, AND 16-4-401, MCA."

Respectfully report as follows: That SENATE Bill No. 231

BE CONCURRED IN

~~NEVER~~
DO PASS

Rep. Ken Nordtvedt, Chairman.

STATE PUB. CO.
Helena, Mont.